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INDONESIA

Open Letter to President Abdurrahman Wahid from Pierre Sané, Secretary General, Amnesty International

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INDONESIA

Open Letter to President Abdurrahman Wahid from Pierre Sané, Secretary General, Amnesty International

I am writing to you as the Secretary General of Amnesty International -- the largest human rights organization in the world -- on the occasion of your election as President of Indonesia. Having just elected a new government and president, the Indonesian state now has an historic opportunity to reshape itself on the basis of respect for law, justice and human rights.

Indonesia, with its 200 million people and substantial resources, has considerable influence worldwide. The deep economic, social and political crisis from which it is emerging had an immense impact in the Asia-Pacific region and beyond. The direction the country now takes to continue the process of recovery and stabilization will similarly have wide implications for the region. Amnesty International therefore urges you and the new government to recognize the importance of human rights to Indonesia's political, economic and social development, and to choose a path that will guarantee the human rights of all Indonesians.

Indonesia has experienced a turbulent period in the last two years during which domestic pressure for reforms - for political participation, an end to corruption and human rights violations, and greater accountability - has intensified. The Indonesian people have called for substantive changes precisely because they recognized that the system was flawed. Key national institutions were weak and suffered from lack of openness and accountability. As a result, corruption was widespread, human rights were abused and no one was able to challenge decisions made by the authorities that affected so many millions of lives.

Many changes have taken place in the past 18 months. Among the positive developments have been the legalization of most political parties and independent trade unions, the release of some prisoners of conscience and political prisoners, and greater press freedom which has contributed to the unprecedented level of debate on issues affecting the people of Indonesia.

Amnesty International has welcomed many of these changes and there is no doubt further progress will continue to enhance Indonesia's standing with the international community. However, the reform process is as yet far from complete. Some promised reforms, such as reforms to the judiciary and legislative changes, have yet to be enacted. Others are not yet fully implemented, for example the creation of a civilian police force, separate from the military. Amnesty International hopes that your government will accelerate and give greater substance to the reform process to ensure genuine participation by the Indonesian people

in the political process, equal access to justice, an independent and impartial judiciary, and a professional and accountable security force.

Prisoners

At least eight prisoners of conscience -- people who have been imprisoned solely for the peaceful expression of their political beliefs -- remain in jail. Among them are members of the People's Democratic Party (*Partai Rakyat Demokratik*, PRD), a political party which is now legal and which stood in the parliamentary elections. Two East Timorese men, imprisoned for their role in organizing demonstrations in East Timor in 1991, continue to serve their sentences in Semarang, Central Java. All should be released immediately and unconditionally.

There are also at least 20 political prisoners who remain in custody, having been convicted under previous governments after unfair trials. These include at least three men from Irian Jaya tried under the Anti-subversion Law for their role in activities in support of independence for Irian Jaya. All of these people should be given the opportunity to have the convictions against them reviewed by an independent body.

Legislative reform and freedom of expression

Amnesty International welcomed the repeal of the Anti-subversion Law, but is concerned that certain of its key provisions which allow for the imprisonment of individuals for the peaceful expression of their beliefs, have now been incorporated into the Indonesian Criminal Code. These articles - Articles 107 a to 107 f - allow for the imprisonment of individuals for crimes against Indonesia's state ideology, Pancasila,[1] and for spreading communism.

Legislation that allows for the imprisonment of people for the peaceful exercise of their right to freedom of expression remains intact, including the so-called "hate-sowing" articles. Under Article 154, "*...the public expression of feelings of hostility, hatred or contempt toward the government...*" is punishable by up to seven years' imprisonment. Article 155 prohibits the expression of such feelings or views through the public media, with a maximum penalty of four and a half years' imprisonment. Article 160 prescribes a maximum of six years' imprisonment for "*inciting*" others to disobey a government order

[1] Pancasila embodies five principles; the belief in one God, humanitarianism, national unity, democracy and social justice.

or to break the law. Article 134 punishes "*insulting the President*" with a maximum sentence of six years' imprisonment. Article 137 allows for the imprisonment of up to one year and four months for anyone who "*disseminates, demonstrates openly or puts up a writing or portrait containing an insult against the President or Vice President*". These articles have been frequently used to imprison people for the peaceful exercise of their beliefs. Amnesty International urges that they be repealed.

Human rights defenders, political, labour and environmental activists in Indonesia remain vulnerable to threats, intimidation and attacks because of their work. Some have recently been subjected to administrative sanctions such as restrictions on their movement because of their activities. Indonesia's current reform agenda includes efforts to strengthen the nation's civil society; guarantees for freedom of expression will be a fundamental part of this. Amnesty International urges the authorities to investigate all threats and intimidation directed at political, human rights and environmental activists and end immediately the practice of placing sanctions on people who have peacefully exercised their right to freedom of expression or association.

The Indonesian National Army (TNI)

The recent human rights crisis in East Timor reflects similar patterns of human rights violations committed by the TNI and the police, in particular in response to armed and peaceful opposition movements in Aceh and Irian Jaya and to civil disturbances in other areas of the country.

Since the beginning of 1999, Amnesty International has recorded hundreds of arbitrary arrests as well as dozens of "disappearances" and unlawful killings in Aceh. In Irian Jaya there are persistent reports of arbitrary detentions and unlawful killings by the security forces. In both areas political activists have been intimidated and threatened. Amnesty International recognizes that armed opposition groups in Aceh and Irian Jaya have committed human rights abuses -including hostage-taking and unlawful killing. We condemn these abuses unreservedly. However any operations by the Indonesian military or police in dealing with armed insurgency must respect international human rights standards.

Amnesty International also recognizes that the level of civil disturbance in Indonesia has dramatically increased in the last few years - fuelled by growing economic and social pressures and demands for reform. Excessive and lethal force by the TNI and the police force have characterised the authorities response to many such disturbances and demonstrations.

Amnesty International urges the new government to take immediate steps to end unlawful killings and excessive use of force by the security forces by issuing immediate instructions that all members of the TNI and the police force must act in accordance with international human rights standards at all times, including when responding to civil disturbances and in the context of counter-insurgency operations.

Amnesty International welcomes Indonesia's recognition that responsibility for maintaining law and order lies with a civilian police force and the initial steps which have been taken to achieve this, that is separating the police from the military. We urge the new government to continue this process with determination to ensure that there is a clear separation of roles between the TNI and the civilian police force and that normal policing functions are conducted by the police and not the military. At the same time, the police should be trained to carry out their duties in accordance with internationally recognized standards, including the UN Code of Conduct for Law Enforcement Officials.

National security legislation

Amnesty International is concerned that in September 1999 the People's Consultative Assembly, (MPR) passed a new law on state security - now awaiting presidential ratification. The new law grants greater power to the TNI during times of emergency or war. In particular, the law allows the TNI to restrict freedom of movement in and out of particular areas; restrict the movement of individuals considered to be carrying out acts which "endanger the security and safety of the state"; conduct investigations, issues summonses and carry out interrogations; control communications, post and electronic instruments; and conduct law and order functions. Amnesty International is concerned that the legislation represents a serious threat to human rights and urges your government not to ratify the law.

Impunity

Ongoing serious human rights violations witnessed throughout Indonesia - in particular in areas of conflict such as Aceh and Irian Jaya - have been perpetuated by the impunity which the TNI and the police force enjoy. Previous governments failed to hold the military and the police accountable for their actions, allowing a cycle of arbitrary detentions, torture, "disappearances" and unlawful killings to continue, and fuelling anger from the victims of human rights violations and their families. Nowhere is this more evident than in Aceh.

Some investigations into human rights violations have taken place in recent years and a few members of the TNI and the police force have been tried for their involvement in human

rights violations. These investigations and trials however have been the exception rather than the rule. The vast majority of human rights violations have not been investigated and the perpetrators have rarely been brought to justice.

To break this cycle of impunity, Amnesty International urges that mechanisms be established which would ensure that all allegations of human rights violations are fully and impartially investigated and that those found responsible for committing such violations are brought to justice in civilian courts.

The Judiciary

Commitments were made by the previous government to reform the judiciary, an acknowledgement of the need for a judiciary able to apply the rule of law independently and impartially. The inability or unwillingness of the judicial system to dispense justice equally under previous governments had seriously damaged the credibility of the judiciary in the eyes of the Indonesian people. Immediate steps to address this by the new government would go a long way to restoring faith in the application of the rule of law in Indonesia.

Amnesty International hopes that the new government will follow through on commitments to establish in law an independent judiciary by removing it from the control of the Justice Ministry; review the judiciary with a view to ensuring that is operating in accordance with international standards on the independence of the judiciary and the right to a fair trial; and ensure that there is comprehensive training of the judiciary in international human rights standards and meaningful participation of non-governmental organizations in this training.

East Timor

As the transition to independence for East Timor begins, Amnesty International urges that your government ensure that commitments by Indonesia in the 5 May 1999 Agreements concerning East Timor, signed by Indonesia, the UN and Portugal, are fulfilled. In particular, we hope that the Indonesian authorities will cooperate to ensure a smooth transition for East Timor to independence and take actions to disarm and disband the armed pro-integration militias now in West Timor.

We also urge that East Timorese refugees currently in West Timor and other parts of Indonesia are protected from threats and attacks by the militias and by members of the TNI; that the government cooperates with the multinational force in East Timor - Interfet - and

with the UN in establishing safe conditions for voluntary return to East Timor; that there is full, secure and unimpeded access for the refugees to the UNHCR and other humanitarian agencies; and that there is no forcible displacement of the East Timorese refugees under "transmigration" programs.

It is also vital that Indonesia cooperates fully with the international Commission of Inquiry which has been established by the Secretary-General of the United Nations to investigate human rights violations in East Timor. Such cooperation would include providing access for the Commission of Inquiry to Indonesia; ensuring the protection of witnesses who are in Indonesia; ensuring the preservation of evidence, and handing over of intelligence and policy documents concerning human rights violations in East Timor and links between the TNI and the pro-integration militias. Cooperation with the Commission of Inquiry will further enhance the standing of your government in the international community.

Cooperation with the United Nations

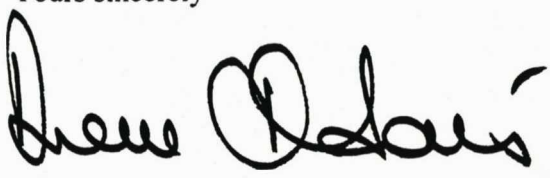
In the past 18 months Indonesia has increased its cooperation with the UN over human rights. It has signed a memorandum of understanding with the UN High Commissioner for Human Rights. It has developed a five-year plan of action - National Action Plan on Human Rights; ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and has ratified ILO Convention 87 and stated its intention to ratify three others - ILO Convention 105 concerning forced labour, ILO Convention 138 abolishing child labour and ILO Convention 111 on discrimination. Under the National Action Plan, the previous government made a commitment to review Indonesian legislation to bring it into line with international human rights standards, a process that now needs to be accelerated.

Amnesty International believes genuine cooperation with the UN can strengthen mechanisms for human rights protection in Indonesia. For this to be the case, the new government must ensure that the ratification of international human rights standards -- including the International Covenant on Social, Economic and Cultural Rights, and the International Covenant on Civil and Political Rights -- is brought forward and that the principles enshrined in these instruments are respected in law and in practice. Training in human rights is also required for government officials, members of the judiciary, the TNI and the police. The government should also cooperate fully with the UN by allowing UN thematic mechanisms and experts to conduct investigations in all areas of the country and by implementing their recommendations.

Amnesty International hopes that your election as president and the formation of a new government will mark the beginning of a new era in Indonesia in which the authorities will

review the legacy of the past, deepen the process of reform and ensure that the rights of all Indonesians are respected. In this way the foundations for stability in Indonesia can be laid and the respect and influence Indonesia enjoys internationally can be enhanced.

Yours sincerely



Pierre Sané
Secretary General

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